



CITY OF DANBURY

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PLANNING & ZONING DEPARTMENT

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To: City of Danbury Planning Commission
City of Danbury Zoning Commission

From: Sharon B. Calitro, Planning Director

Date: April 15, 2021

Re: Petition to Amend Various Sections 4.H. of the Zoning Regulations, PND Zone
SC Ridge Owner LLC

We have received a petition to amend Sections 4.H.2.b.(2)(a), 4.H.2.b.(2)(a)(iv), 4.H.2.b.(3)(b)(ii) of, and add Section 4.H.2.b.(3)(b)(v) to, the PND Zoning Regulations. The amendments are noted to provide flexibility in the adaptive reuse or retrofitting of large buildings in a PND and to allow a secondary school as a community facility use as part of a mixed-use development in the PND Zoning District.

The petitioner included a letter from Attorney Beecher dated March 30, 2021 wherein it outlined and provided reasons for its request.

Comments on Proposed Amendments

1. Amend Section 4.H.2.b.(2)(a) to increase the maximum allowable non-residential square footage from 75% to 85% of the existing building gross floor area in the case of the retrofit of an existing building alternative.

The increase in maximum allowable non-residential square footage under the retrofit alternative is proposed to compensate for interior space within the building that currently counts towards the non-residential maximum but is not leasable space, e.g. stairwells, elevator shafts, hallways. This request does not appear unreasonable. Additionally, utilizing 85% of the existing building gross floor area is also consistent with the percentage used to calculate the required number of parking spaces per Section 8.C.4.

2. Amend Section 4.H.2.b.(2)(a)(iv) to allow for the reduction in the required total number of dwelling units from 250 to 175 units in a PND under the retrofit alternative and within the

existing building if a portion of the building is to be occupied by a public school owned and operated by the City of Danbury.

The reduction in the required minimum number of dwelling units under this specific scenario compensates for the commensurate loss of space within a retrofit structure for the required mix of uses if a City school is constructed in the building. A minimum number of units remains to be required which will ensure that there continues to be a mix of uses in the PND, including residential. There is a public benefit to use of a portion of the retrofit space for a school owned and operated by the City of Danbury not similarly enjoyed if the school space is privately developed. As such, under the City school alternative in a retrofit structure, the required number of dwelling units would be decreased from 250 to 175. If a school other than a City of Danbury school is proposed in the retrofit PND, the required number of residential units would remain at 250.

3. Amend Section 4.H.2.b.(3)(b)(ii) to add secondary schools to the list of permitted community facility uses in a PND.

The list of permitted uses in the above-referenced section currently permits kindergarten and elementary schools. The amendment proposes to add secondary schools, a request driven by the collaborative initiative to establish a City-owned school for grades 6-12 in three of the six pods that were originally slated for dwelling units to address public school space needs. While it is true that the amendment would allow a secondary school as part of a retrofit/adaptive reuse PND, it would also allow a secondary school as part of any PND. Neither the language in this existing section of the Zoning Regulations or the proposed amendment to this specific section makes a distinction relative to ownership/operation of the educational facility(ies) listed as permitted uses. Such uses, if owned and operated by the City of Danbury, would however, enjoy relaxation of certain requirements that facilities by others would not (e.g., reduction in minimum number of dwelling units as noted above, and exclusion of the floor space from calculation of maximum non-residential space as noted below) because these uses provide a public benefit and help address a public need.

4. Add Section 4.H.2.b.(3)(b)(v) to allow for the exclusion of the floor area of kindergarten, elementary, or secondary schools owned and operated by the City of Danbury from the calculation of the total maximum non-residential square footage allowed in a PND Zone.

The exclusion of the floor area of a kindergarten, elementary or secondary school from the maximum non-residential square footage would only be permitted if the school is to be owned and operated by the City of Danbury. If any of these educational uses were proposed to be otherwise owned and operated, the floor area of those uses would count in the calculation of the total non-residential square footage allowed in the PND. The exclusion is provided only for public schools because private facilities would not garner the same level of public benefit. For example, a private kindergarten or private school, operated for profit is a commercial use as compared to a City of Danbury public school owned and operated by the City to provide public educational opportunities to Danbury residents.

Compliance with the Plan of Conservation and Development (“POCD”)

While these are general zoning amendments, it is clear, based on the collaborative effort regarding the Danbury Career Academy, that the amendments will ultimately help address redevelopment/retrofitting of its building on the west side. In this regard, the amendments could be considered consistent with the latter language in Vision Statement #3 of the POCD which states that the west side would, among other things, be the focus of creatively designed neighborhoods. The establishment of the Danbury Career Academy within an existing mixed use building is indeed creative.

The Land Development Plan section (page 14) provides, in part, that land owners should be encouraged to improve design of renovated structures. Utilizing a portion of a building as a public school can result in improved design within and on the exterior of a renovated structure.

The Public Facilities and Utilities Plan Section (page 41) indicates, as to Danbury Public Schools, that necessary school facilities be provided to “meet the growing and changing needs of the Danbury Public Schools.” The proposed amendments do just that.

Since this petition is a zoning amendment applicable to any property which may be designated a PND, there is no required finding of consistency with the Land Development Plan Map.

Conclusion

The request to increase the percentage of non-residential square footage within a retrofit building in a PND from 75% to 85% seems appropriate considering that there is interior space that must be provided to meet tenant needs that is not rentable space. It also aligns the percentage with existing parking regulations, thus maintaining consistency in calculations. Adding a secondary school to the list of existing schools also seems appropriate in 2021 as the City must address space needs for its increasing student population. Finally, by reducing the required minimum number of dwelling units when a City school is proposed and excluding City schools from the non-residential square footage calculation, PND developers are incentivized and not penalized if they provide these facilities to help address community needs. In this case, the amendments will help address public school needs that were not prevalent 20 years ago when the PND regulations were promulgated.

To amend the Zoning Regulations, the commissions must find that the amendments are (1) consistent with the POCD, (2) meet the purpose and intent of the PND Zone, and (3) will not negatively impact the health, safety and welfare of the general public.

Based on the above, Staff supports the proposed amendments.

c: Robin Edwards, Assistant Corporation Counsel
Jennifer Emminger, Deputy Planning Director
Thomas Beecher, Attorney
SC Ridge Owner, LLC